

## § 392.6

of the order to the Division Administrator or State Director for the geographical area in which the order was issued. The Division Administrator or State Director may affirm or reverse the order. Any driver adversely affected by such order of the Regional Director of Motor Carriers may petition the Administrator for review in accordance with 49 CFR 386.13.

(49 U.S.C. 304, 1655; 49 CFR 1.48(b) and 301.60)

[47 FR 47837, Oct. 28, 1982, as amended at 52 FR 27201, July 20, 1987; 59 FR 7515, Feb. 15, 1994; 61 FR 9567, Mar. 8, 1996]

### § 392.6 Schedules to conform with speed limits.

No motor carrier shall schedule a run nor permit nor require the operation of any commercial motor vehicle between points in such period of time as would necessitate the commercial motor vehicle being operated at speeds greater than those prescribed by the jurisdictions in or through which the commercial motor vehicle is being operated.

[33 FR 19732, Dec. 25, 1968, as amended at 60 FR 38746, July 28, 1995]

### § 392.7 Equipment, inspection and use.

No commercial motor vehicle shall be driven unless the driver is satisfied that the following parts and accessories are in good working order, nor shall any driver fail to use or make use of such parts and accessories when and as needed:

- Service brakes, including trailer brake connections.
- Parking (hand) brake.
- Steering mechanism.
- Lighting devices and reflectors.
- Tires.
- Horn.
- Windshield wiper or wipers.
- Rear-vision mirror or mirrors.
- Coupling devices.

[33 FR 19732, Dec. 25, 1968, as amended at 60 FR 38746, July 28, 1995]

### § 392.8 Emergency equipment, inspection and use.

No commercial motor vehicle shall be driven unless the driver thereof is satisfied that the emergency equipment required by § 393.95 of this subchapter is in place and ready for use; nor shall any driver fail to use or make

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use of such equipment when and as needed.

[49 FR 38290, Sept. 28, 1984, as amended at 60 FR 38746, July 28, 1995]

### § 392.9 Inspection of cargo, cargo securement devices and systems.

(a) *General.* A driver may not operate a commercial motor vehicle and a motor carrier may not require or permit a driver to operate a commercial motor vehicle unless—

(1) The commercial motor vehicle's cargo is properly distributed and adequately secured as specified in §§ 393.100 through 393.142 of this subchapter.

(2) The commercial motor vehicle's tailgate, tailboard, doors, tarpaulins, spare tire and other equipment used in its operation, and the means of fastening the commercial motor vehicle's cargo, are secured; and

(3) The commercial motor vehicle's cargo or any other object does not obscure the driver's view ahead or to the right or left sides (except for drivers of self-steer dollies), interfere with the free movement of his/her arms or legs, prevent his/her free and ready access to accessories required for emergencies, or prevent the free and ready exit of any person from the commercial motor vehicle's cab or driver's compartment.

(b) *Drivers of trucks and truck tractors.* Except as provided in paragraph (b)(4) of this section, the driver of a truck or truck tractor must—

(1) Assure himself/herself that the provisions of paragraph (a) of this section have been complied with before he/she drives that commercial motor vehicle;

(2) Inspect the cargo and the devices used to secure the cargo within the first 50 miles after beginning a trip and cause any adjustments to be made to the cargo or load securement devices as necessary, including adding more securement devices, to ensure that cargo cannot shift on or within, or fall from the commercial motor vehicle; and

(3) Reexamine the commercial motor vehicle's cargo and its load securement devices during the course of transportation and make any necessary adjustment to the cargo or load securement devices, including adding more securement devices, to ensure that cargo cannot shift on or within, or fall from, the

commercial motor vehicle. Reexamination and any necessary adjustments must be made whenever —

(i) The driver makes a change of his/her duty status; or

(ii) The commercial motor vehicle has been driven for 3 hours; or

(iii) The commercial motor vehicle has been driven for 150 miles, whichever occurs first.

(4) The rules in this paragraph (b) do not apply to the driver of a sealed commercial motor vehicle who has been ordered not to open it to inspect its cargo or to the driver of a commercial motor vehicle that has been loaded in a manner that makes inspection of its cargo impracticable.

[67 FR 61224, Sept. 27, 2002]

#### § 392.9a Operating authority.

(a) *Registration required.* A motor vehicle providing transportation requiring registration under 49 U.S.C. 13902 may not be operated without the required registration or operated beyond the scope of its registration.

(b) *Penalties.* Every motor vehicle providing transportation requiring registration under 49 U.S.C. 13902 shall be ordered out-of-service if determined to be operating without registration or beyond the scope of its registration. In addition, the motor carrier may be subject to penalties in accordance with 49 U.S.C. 14901.

(c) *Administrative Review.* Upon the issuance of the out-of-service order under paragraph (b) of this section, the driver shall comply immediately with such order. Opportunity for review shall be provided in accordance with section 554 of title 5, United States Code not later than 10 days after issuance of such order.

[67 FR 55165, Aug. 28, 2002]

### Subpart B—Driving of Commercial Motor Vehicles

#### § 392.10 Railroad grade crossings; stopping required.

(a) Except as provided in paragraph (b) of this section, the driver of a commercial motor vehicle specified in paragraphs (a) (1) through (6) of this section shall not cross a railroad track or tracks at grade unless he/she first:

Stops the commercial motor vehicle within 50 feet of, and not closer than 15 feet to, the tracks; thereafter listens and looks in each direction along the tracks for an approaching train; and ascertains that no train is approaching. When it is safe to do so, the driver may drive the commercial motor vehicle across the tracks in a gear that permits the commercial motor vehicle to complete the crossing without a change of gears. The driver must not shift gears while crossing the tracks.

(1) Every bus transporting passengers,

(2) Every commercial motor vehicle transporting any quantity of a Division 2.3 chlorine.

(3) Every commercial motor vehicle which, in accordance with the regulations of the Department of Transportation, is required to be marked or placarded with one of the following classifications:

(i) Division 1.1

(ii) Division 1.2, or Division 1.3

(iii) Division 2.3 Poison gas

(iv) Division 4.3

(v) Class 7

(vi) Class 3 Flammable

(vii) Division 5.1

(viii) Division 2.2

(ix) Division 2.3 Chlorine

(x) Division 6.1 Poison

(xi) Division 2.2 Oxygen

(xii) Division 2.1

(xiii) Class 3 Combustible liquid

(xiv) Division 4.1

(xv) Division 5.1

(xvi) Division 5.2

(xvii) Class 8

(xviii) Division 1.4

(4) Every cargo tank motor vehicle, whether loaded or empty, used for the transportation of any hazardous material as defined in the Hazardous Materials Regulations of the Department of Transportation, Parts 107 through 180 of this title.

(5) Every cargo tank motor vehicle transporting a commodity which at the time of loading has a temperature above its flashpoint as determined by § 173.120 of this title.

(6) Every cargo tank motor vehicle, whether loaded or empty, transporting any commodity under exemption in accordance with the provisions of subpart B of part 107 of this title.